

**United States Bankruptcy Court  
Eastern District of Wisconsin  
Local Bankruptcy Rules Committee  
Federal Court House, Room 482  
July 12, 2005 at 3:00pm**

In attendance: Judge Dee McGarity, James Adashek, David Asbach, Peter Blain, Thomas King (phone), Jeffery Nordholm (Chair), Christopher Austin, Rebecca Garcia (on behalf of Mary Grossman), Jennifer Thompson (on behalf of Larry Liebzeit/phone), Brett Pfeifer, Christine Wolk (phone) and Ralph Anzivino (Reporter/phone).

Judge McGarity expressed her thanks to those involved in this committee work, and the importance of the committee's work.

The Chair disseminated two memoranda to the committee members. One is dated April 28, 2005 from Judge Thomas Zilley, Chair, Advisory Committee on Bankruptcy Rules for the Committee on Rules of Practice and Procedure of the Judicial Conference of the United States. The memorandum indicates that the Committee intends to transmit interim rules to the courts before October 2005 with a recommendation that they are adopted. In a subsequent phone conversation, Judge Zilley's office indicated they expected the interim rules and forms to be available for review and adoption by September 1, 2005. The second memorandum is dated June 1, 2005 from Judge Marjorie Rendell, Chair, Committee on the Administration of the Bankruptcy System of the Judicial Conference of the United States. Judge Rendell's memorandum references the work to be undertaken by Judge Zilley's committee, and identifies a number of other areas under review including *in forma pauperis* filings, appeals procedures, new bankruptcy administrator and bankruptcy clerk responsibilities, reporting and statistics, and the filing of tax returns.

The committee initially considered whether it should begin drafting its own Interim Rules or await the proposed rules from Judge Zilley's committee. It was the unanimous consensus of the committee that it made most sense to await the proposed rules, rather than begin drafting its own Interim Rules.

It was noted that some current issues need to be fast-tracked and considered by the committee before the Interim Rules are available. Examples were issues dealing with fees, commencement of trustee payments and adequate protection for secured creditors. The committee was open to receiving and considering other fast-track issues, and agreed to focus on those issues as a primary matter.

The next matters for consideration were the 5 proposals to modify the current local rules. In summary, the proposals are:

1. permit the Chapter 13 Trustee to direct the debtor's employer to pay the required income directly to the Chapter 13 Trustee without a court order;

2. allow for the automatic modification of the automatic stay in Chapter 7 & 13 cases after 46 days to allow the IRS to offset a pre-petition refund;
3. eliminate the requirement for an income summary sheet as currently required by LR 1002;
4. eliminate the prohibition against omnibus claims objections under LR 3007(a); and
5. increase the current presumed reasonable fee in Chapter 13 cases as found in LR 2016.1.

The committee undertook discussion and consideration of each proposal.

Proposal #1. It was noted that the new Code Amendments do not address the income directive issue. Currently a court order is required to obtain an income directive to direct the employer to pay direct. The argument in favor of the proposal is that there is a higher success rate in chapter 13 cases that have the income directive. The considerations against are that it has become much easier for the court to administer the income directives under the electronic system, and thus no longer as burdensome to issue the directives. Also, there is an element of lack of control to the debtor in directing one's finances. The committee was also concerned with the circumstances upon which the income directive could be applied. In other words, will it apply to only wages, salary or other types of a debtor's income? Also, are there circumstances when a Chapter 13 trustee could consider not using the income directive? In light of the discussion, it was agreed that members Wolk, King and Garcia would redraft the proposal in light of the committee's discussion and present a new draft at the next committee meeting.

Proposal #2. It was noted that new section 362 (c) (26) moots this proposal and it was withdrawn from further consideration.

Proposal #3. With electronic filing, the summary information sheet has become moot, and thus LR 1002 needs to be amended as provided in the proposal.

Approved unanimously.

Proposal #4. It was noted that the practice of omnibus objections is common in large cases, and this rule is not consistent with practices in other jurisdictions.

Approved unanimously.

Proposal #5. In light of the uncertainty surrounding the new requirements under the amended code, it did not seem prudent to ponder a presumed reasonable fee at this time. Rather, the committee believes it is prudent to await some experience under the new code before addressing a presumed reasonable fee. In the interim, attorneys should be filing fee applications for fees once the code goes into effect. The committee noted that it was open to receiving comments from the Bar to assist it in arriving at a presumed reasonable fee. The committee agreed to table further discussion until at least 30 days after October 17, 2005.

Finally, the committee agreed to post its approved minutes on the Bankruptcy, Insolvency and Creditor's Rights list serv and the Bankruptcy Court's web page to inform the Bar

and solicit comments as the committee's work proceeds. It was further agreed that the Reporter would disseminate a draft of the minutes by email to each committee member, and after a 5 day comment and correction period, the minutes will be deemed approved as corrected.

The meeting adjourned at 4:33pm.

Minutes prepared by Professor Ralph C. Anzivino